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SUMMARY RECORD OF THE 54th MEETING
(FIRST PART*)

Held at the Palais des Nations, Geneva,
on Wednesday, 4 March 1992, at 3 p.m.

Chairman: Mr. SOLT (Hungary)

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* The summary record of the second part of the meeting appears as document E/CN.4/1992/SR.54/Add.1.

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The meeting was called to order at 4.40 p.m.

DRAFT RESOLUTIONS AND DECISIONS RELATING TO AGENDA ITEMS 18, 17, 11 and 12

Draft resolution E/CN.4/1992/L.72 (agenda item 18) (continued)

1. Mr. MAUTNER-MARKHOF (Secretary of the Commission) announced that Cuba and Switzerland had joined the sponsors of the draft resolution.

2. Mr. RUSTICO (Italy) said that, following consultations with the delegations concerned, he wished to propose a slight amendment to the draft resolution on the protection of Roma (gypsies). The first preambular paragraph should be replaced by the following text: "Recalling the International Convention on the Elimination of All Forms of Racial Discrimination and the principles contained therein,". In operative paragraph 2, the part of the sentence following "(gypsies)" would be deleted.

3. Mr. ROSENGARTEN (Germany) proposed that the end of operative paragraph 1 should be amended to make it quite clear that it related to the specific conditions prevailing in those States where the Roma traditionally lived as subjects. He also proposed that the beginning of paragraph 2 should be amended to read: "Invites the respective States".

4. Mr. ADENIJI (Nigeria) considered that it would be preferable to use the expression "States concerned" rather than "respective States". Apart from that, he had some difficulty in understanding the first amendment proposed by Germany.

5. Mr. SEZARI (Japan) proposed that the last part of paragraph 1 after the words "specific conditions" should, in accordance with the German proposal, be amended to read: "in the States in which the Roma (gypsies) have traditionally been living as subjects of the State".

6. Mr. ROSENGARTEN (Germany) agreed to the proposals made by the representatives of Nigeria and Japan.

7. Mr. BAIER (Austria) endorsed the draft resolution as amended by Italy. On the other hand, he found the amendments proposed by Germany - particularly the phrase "subjects of the State" - to be unclear and requested the German representative to withdraw them.

8. Mr. KALOC (Czechoslovakia) supported the Austrian representative's proposal.

9. Mr. HESSEL (France) also supported the Austrian proposal and suggested that the representative of Germany should make an explanatory statement after the vote, should he wish to do so.

10. Mr. SENE (Senegal), also considered that the amendments proposed by Germany presented problems and asked if it would be possible to postpone consideration of the text in order to allow its sponsors to consult and agree on amendments which would be acceptable to all.

11. Mr. ROSENGARTEN (Germany) refused to withdraw his amendments and requested that they should be put to the vote, as reworded by the representatives of Nigeria and Japan.

12. The CHAIRMAN put to the vote both the amendment to paragraph 1 submitted by Japan and supported by Germany and the amendment to paragraph 2 submitted by Germany and further amended by Nigeria.

13. The amendments to paragraphs 1 and 2 were rejected by 16 votes to 3, with 27 abstentions.

14. The CHAIRMAN invited the members of the Commission to take a decision on the draft resolution as amended by Italy.

15. At the request of Mr. Rosengarten (Germany), a vote was taken.

16. Draft resolution E/CN.4/1992/L.72, as orally amended, was adopted by 43 votes to none, with 8 abstentions.

Draft resolution VI, chapter I.A, as contained in document E/CN.4/1992/2-E/CN.4/Sub.2/1991/65 (agenda item 18)

17. The CHAIRMAN said that, if there was no objection, he would take it that, in view of the adoption of draft resolution E/CN.4/1992/L.72 as amended, the Commission did not wish to take a decision on draft resolution VI on the protection of minorities submitted by the Sub-Commission.

18. It was so decided.

19. Mr. ROSENGARTEN (Germany), explaining his vote on draft resolution E/CN.4/1992/L.72, referred the members of the Commission to his statement of the previous day; he had said that the Roma were not regarded as a minority in Germany, where they were not subjected to any discrimination. Any person illegally resident in the country could be the subject of a deportation order and accordingly be expelled.

Draft resolution E/CN.4/1992/L.61 (agenda item 17)

20. Mr. DAUM (Germany), on behalf of the co-sponsors, introduced the draft resolution on the work of the Sub-Commission on Prevention of Discrimination and Protection of Minorities. Emphasizing that the Sub-Commission occupied an essential place among United Nations bodies, he noted that it was composed not only of State representatives, but also of independent experts who, coming from different cultural backgrounds and being particularly qualified regarding the protection of human rights, had an exceptional insight into the meaning of human rights for mankind as a whole.

21. The draft resolution under consideration therefore endeavoured to strengthen the means of action of the Sub-Commission, whose work was of great value to the Commission. To that end, it had appeared sensible to build on the suggestions and recommendations made by the Sub-Commission itself and contained in the report of its Chairman (E/CN.4/1992/46). The purpose of the draft resolution was first to authorize the establishment of an intersessional

working group composed of one representative from each regional group in the Sub-Commission, and secondly to provide certain guidelines for the working group (operative para. 7). Thirdly, it provided that the working group should submit its proposals to the Sub-Commission, which would take a decision on them. He considered that the proposals contained in the draft resolution were in the interests of both the Sub-Commission and the Commission itself, and hoped that it would be adopted by consensus.

22. Mr. MAUTNER-MARKHOF (Secretary of the Commission) announced that Japan wished to join the sponsors of the draft resolution. As to the financial implications of the text, he said that the related costs would be US$ 16,300 for 1992, and would be met from the 1992 reserves provided for in the programme budget for the 1992-1993 biennium.

23. Mr. ROA KOURI (Cuba) expressed his disagreement with paragraph 7 of the draft resolution. In his view, there was no reason to list the points which should be considered by the intersessional working group; such an approach, which indicated a lack of confidence in the Sub-Commission, could only be detrimental to the good relations between the Commission and its subsidiary body. He therefore requested a separate vote on paragraph 7 and expressed his intention to vote against the paragraph.

24. Mr. KHOURY (Syrian Arab Republic) recalled decision 1991/117 relating to the working group on the Sub-Commission's methods of work, in which the latter had decided to establish, on an exceptional basis, an intersessional working group in 1992 and had listed the topics, limited to five, to be considered by the group. The draft resolution under consideration by no means reflected the wishes of the Sub-Commission; thus, for example, paragraph 4 failed to specify that the intersessional working group would meet for only five days and only in 1992.

25. In general, his delegation regretted that tasks should be taken away from the Sub-Commission and entrusted to a small working group; in its view, the draft resolution ran counter to the desired aim. The quality of the Sub-Commission's work was largely attributable to the participation of a large number of experts from various countries in its deliberations and studies. The activities of a small working group could only be followed by a small number of people, and the international community would receive very little feedback. He therefore expressed reservations regarding paragraphs 4, 5, 6 and 7 of the draft resolution, which he invited the sponsors to review in its entirety.

26. The CHAIRMAN invited members of the Commission wishing to do so to make general comments.

27. Mr. DAUM (Germany) said that the sponsors of the text under consideration appreciated the points made by the representatives of Cuba and the Syrian Arab Republic. In the view of the sponsors, the issue was not one of reducing the number of experts who, by virtue of their varied cultural and geographical origins, made such a useful contribution to the work of the Sub-Commission. The proposed text simply provided for the intersessional working group to endeavour to examine more precisely the question of rationalizing the work of the Sub-Commission by applying itself exclusively to procedural matters and not to substantive problems.

28. It was entirely clear from paragraph 6, which stated that the list of proposals drawn up by the intersessional working group would be submitted to all the experts for consideration and to the Sub-Commission for adoption, that there was no intention whatsoever to prejudge any decisions that might be taken by the Sub-Commission regarding the recommendations of that working group. The duration of the working group's session could be set at five days.

29. Mrs. LE FRAPER DU HELLEN (France) said that the draft resolution under consideration was somewhat different from the one which had been submitted the previous year with a view to improving the working methods of the Sub-Commission. First, the intersessional working group would succeed the sessional working group established by the Sub-Commission in 1989. Moreover, in his statement, the Chairman of the Sub-Commission had presented to the Commission a number of matters for consideration which had already been discussed at the previous session of the Sub-Commission. All the points contained in operative paragraph 7 could therefore be regarded as already having been discussed by the Sub-Commission experts, who, pursuant to their decision 1991/117, had finally opted to form on an exceptional basis an intersessional working group on rationalization of the work on their agenda. As indicated by the representative of Germany, the working group's proposals would be considered by all the experts and it would be for the Sub-Commission as a whole to decide whether they should be adopted. The duration of the intersessional working group's session could be regarded as settled, as operative paragraph 6 stated that the Sub-Commission would examine "at its forty-fourth session" the list of proposals by the working group.

30. Her delegation therefore considered that paragraphs 4, 5, 6 and 7 of draft resolution L.61 should be adopted as they stood, since they reflected the wishes of the Sub-Commission and were based on the recommendations made to the Commission by the Sub-Commission itself. There was certainly no reason for the Commission to send a negative signal to the members of the Sub-Commission.

31. Mr. SENE (Senegal) said that the representative of Germany had been right to present the draft resolution in the context of the useful dialogue which had been under way for some years between the Sub-Commission and the Commission. It was certainly in that light that the text should be read. In fact, what was more natural than for the Sub-Commission and the Commission to seek constantly to improve their methods of work and their approach to problems? A broad debate to that end had already been started at the preceding session of the Sub-Commission, and as the Chairman of the latter had said in his statement to the Commission, great progress had been made. Even if the Sub-Commission had been unable to finish its work owing to lack of time, it had nevertheless conducted in-depth discussions on the issues of the independence of experts, the time required for completion of studies and the report, the setting of priorities, and the follow-up to implementation of the recommendations contained in those documents.

32. The text under consideration was therefore not really new, except that the Sub-Commission experts were requesting the Commission to approve, on an exceptional basis, the formation of an intersessional working group with a view to rationalizing their work. Why refuse them that mark of confidence? The ongoing elections in the Sub-Commission also showed the interest taken by

the international community, and by the Commission in particular, in the activities of the Sub-Commission. The draft resolution should therefore be supported and the Sub-Commission should be authorized to form, on an exceptional basis, an intersessional working group.

33. Mr. OMAR (Libyan Arab Jamahiriya) thanked the sponsors of draft resolution L.61. The proposed text presented no particular difficulties for his delegation, which shared the sponsors' interest in the work of the Sub-Commission. Nevertheless, with regard to paragraph 7, he believed it would be preferable, in subparagraphs (d) and (e), to replace the word "Initiatives" by "Proposals", and in subparagraph (e), to delete the words following "of the agenda".

34. Mr. MASRI (Syrian Arab Republic) said he had misgivings about the efficiency and productivity of an intersessional working group which would devote only five days to a complex subject with far-reaching consequences not only for the work of the Sub-Commission, but also for the role of the expert members. The problem of efficiency would not be solved by amending any particular paragraph! On the other hand, the proposed working group must not be given a mandate which somehow prevailed over that of the Sub-Commission itself. On the contrary, the States members of the Commission must be given the opportunity to consider the question from all angles and to make their comments before the following year. His delegation therefore proposed that consideration of draft resolution L.61 should be postponed until 1993.

35. The CHAIRMAN reminded the members of the Commission that, in accordance with rule 49 of its rules of procedure, permission to speak on a motion for adjournment was only accorded to two representatives favouring and to two representatives opposing the adjournment, after which the motion was put to the vote immediately.

36. Mr. DAUM (Germany) said that he saw no need to adjourn the vote on a draft resolution which, as already stressed, contained proposals which were already known and were aimed at improving the efficiency of the Sub-Commission's work. Furthermore, the draft did not prejudge any decision the members of the Sub-Commission might take regarding the proposals to be made to them on solely procedural matters by the intersessional working group.

37. Mrs. SANTOS PAIS (Portugal) said it should not be forgotten that the Commission had been asked by the Sub-Commission to act on the findings it had submitted to the Commission regarding the rationalization of its own work. The Commission should leave it to the Sub-Commission to consider how to improve its work. Adjourning its decision on draft resolution L.61 would demonstrate an unwelcome lack of confidence in its subsidiary body.

38. The motion to adjourn the decision on draft resolution E/CN.4/1992/L.61 was rejected by 28 votes to 2, with 15 abstentions.

39. Mr. DAUM (Germany) said that the positive amendments proposed by the Libyan Arab Jamahiriya to paragraph 7 (d) and (e) of the draft resolution were acceptable to his delegation.

40. The CHAIRMAN reminded members that the representative of Cuba had requested a separate vote on paragraph 7.

41. Paragraph 7 of draft resolution E/CN.4/1992/L.61, as orally amended, was adopted by 31 votes to 11, with 6 abstentions.

42. Draft resolution E/CN.4/1992/L.61 was adopted by 40 votes to none, with 11 abstentions.

Draft decision 14 (Working group on the methods of work of the Sub-Commission) (agenda item 17)

43. The CHAIRMAN said that, if there was no objection, he would take it that, having adopted draft resolution E/CN.4/1992/L.61, the Commission did not wish to take a decision on the draft decision 14.

44. It was so decided.

45. Mr. ZHANG Yishan (China), speaking in explanation of vote, said that in its statement on item 17 his delegation had proposed, among other things, that the spirit of Commission resolution 1991/56 regarding the mandate of the Sub-Commission should be respected; that mandate consisted in doing expert work which was inherently different from that of the Commission itself. He noted that, at its forty-seventh session, the Commission had made suggestions on improving the methods of work of the Sub-Commission, but those suggestions had not been taken up in the resolution just adopted, a resolution which even ran counter to the initial intention. His delegation had suggested to the sponsors of the resolution amendments of the type which it believed was indicated, but they had not been taken into account, which was why it had abstained in the vote. He requested that his explanation of vote should be reflected in the record of the meeting.

Draft resolution E/CN.4/1992/L.82/Rev.1 (agenda item 11)

46. Mr. STROHAL (Austria) introduced the draft resolution on behalf of its sponsors, which had been joined by Argentina, Italy and Somalia. Although the question which it dealt with, namely, that of internally displaced persons, was relatively new for the Commission, the number of people it covered was perhaps even greater than that of externally displaced persons, i.e. refugees. The verbal and written information transmitted by the Secretary-General, the United Nations High Commissioner for Refugees and the International Committee of the Red Cross, among others, was very patchy. Furthermore, it had emerged from the informal consultations which his delegation had held with other delegations that the latter wanted the international community to tackle the problem, to do so judiciously and to have all the requisite information at its disposal. Accordingly, paragraphs 2 to 5 of the draft resolution provided for activities which consisted of an independent expert gathering all the requisite information and the views of interested Governments, and submitting a complete study on the question to the Commission at its forty-ninth session. The study and the recommendations it contained would provide the Commission with the necessary means to follow up the ideas presented to it by the United Nations High Commissioner for Refugees.

47. He wished to correct an error in the text of paragraph 3 where, at the end of the second line, the words "opinions and" had been omitted before the word "information". He expressed his confidence that the draft resolution could be adopted without being put to the vote, but asked the Commission to postpone its decision on the draft, as some delegations had not had time to consider it at leisure.

48. Mr. SHAH (India), making a general statement on the draft resolution under consideration, noted the growing importance of the question of internally-displaced persons in the eyes of the various competent bodies and agencies in the United Nations system. He did not deny the importance of that question, but believed that the draft resolution submitted to the Commission was inadequate in several respects. First, the report which had inspired it (E/CN.4/1992/23) prejudged the direction of future studies on the subject. Secondly, it had been drafted in the light of the views of only 12 member States. In the opinion of his delegation, it would be preferable, for future studies, to solicit the views of the member States, and particularly to extend by one year the mandate conferred by the Commission upon the Secretary-General in its resolution 1991/25, rather than to transfer that mandate to an independent expert. It would also have been preferable if the Commission had established a working group whose members had been appointed on the basis of equitable geographical distribution and which had made use of the report of the Secretary-General. The sponsors of the draft resolution, however, had not taken up that suggestion. The secretariat should find means of ensuring that member States from all regions participated in the study. Seminars, such as that proposed in paragraph 4, could not replace the vital mechanism of consultations with member States. In any event, a hasty decision to appoint a single expert, however independent he might be, was certainly not the best solution; the Indian delegation would therefore have preferred consideration of the item to be postponed until the next session of the Commission. In any event, it did not oppose the proposal by the delegation of Austria that the decision on draft resolution E/CN.4/1992/L.82/Rev.1 should be deferred.

49. The CHAIRMAN said, that if there was no objection, he would take it that the Commission wished to postpone its decision on draft resolution E/CN.4/1992/L.82/Rev.1.

50. It was so decided.

Draft resolution E/CN.4/1992/L.24 (agenda item 12)

51. Mr. MAUTNER-MARKHOF (Secretary of the Commission) informed the Commission that Costa Rica, Iceland, Japan, Liechtenstein and Switzerland had joined the sponsors of draft resolution E/CN.4/1992/L.24, which had been introduced the previous day by the representative of Portugal. The financial implications of the draft resolution were estimated at US$ 92,600 for 1992 and US$ 23,900 for 1993; the corresponding allocations were provided for in the programme budget for the biennium 1992-1993.

52. Mr. SCHERK (Austria) said he had hoped that, as in previous years, there would be consensus on the question of Iran, which was the subject of the draft resolution under consideration. Unfortunately, such was apparently not the

case. In order to encourage improvement of the human rights situation in that country, his delegation had decided to join the sponsors of the draft resolution.

53. Mr. ASSADI (Iran), speaking in explanation of vote before the vote, said that draft resolution E/CN.4/1992/L.24 was not justified in view of the true human rights situation in Iran. His delegation had already had occasion to draw attention to the shortcomings in the report of the Special Representative (E/CN.4/1992/34) and to reaffirm the readiness of the Iranian Government to continue its cooperation with the Commission. Although conscious of the political motivations of certain sponsors of the draft under consideration and of one of them in particular, his delegation had spared no effort to reach an understanding with them and deplored the unprecedented arrogance which they had displayed towards it. The lack of consensus was essentially due to the unwillingness on the part of certain sponsors to enter into genuine negotiations with it in order to find a basis for understanding. Draft resolution E/CN.4/1992/L.24, which contained unacceptable wording and untruths, was in sharp contrast with the resolution on the same question adopted by the Commission by consensus at its previous session. His delegation would consequently vote against the draft resolution.

54. Mr. PEREIRA GOMES (Portugal), speaking in explanation of vote before the vote, said that draft resolution E/CN.4/1992/L.24 had been prepared on the basis of the report of the Special Representative appointed to study the human rights situation in Iran (E/CN.4/1992/34). It was true that the Iranian delegation had expressed, albeit belatedly, the wish to engage in negotiations with the sponsors of the draft, but the latter had made it clear that some elements were non-negotiable. His delegation regretted that it had not been possible for the sponsors to accommodate the views of the Iranian delegation, despite their efforts in that direction; it requested the Commission to adopt the draft resolution as it stood, in view of the human rights situation in Iran. With regard to the extension of the mandate of the Special Representative, which the Iranian delegation claimed to accept, it might be as well to recall that, in his statement to the Commission on 26 February, the representative of Iran had said: "While monitoring based on the illusions of massive and gross violation of human rights in Iran has now completely lost its never-existing raison d'être, its continuation will only continue to prove the same point, which is just fine with us." The Portuguese delegation left it to the Commission to evaluate those words.

55. At the request of the representative of Iran, a vote was taken by roll-call on draft resolution E/CN.4/1992/L.24.

56. Cyprus, having been drawn by lot by the Chairman, was called upon to vote first.

In favour:

Australia, Austria, Brazil, Canada, Chile, Costa Rica, Czech and Slovak Federal Republic, France, Germany, Hungary, Iraq, Italy, Japan, Mexico, Netherlands, Peru, Portugal, Russian Federation, Tunisia, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela.

Against:

Bangladesh, China, Cuba, Gambia, Ghana, Indonesia, Islamic Republic of Iran, Libyan Arab Jamahiriya, Pakistan, Philippines, Somalia, Syrian Arab Republic.

Abstaining:

Angola, Colombia, Cyprus, Gabon, India, Kenya, Lesotho, Madagascar, Mauritania, Nigeria, Senegal, Sri Lanka, Uruguay, Yugoslavia, Zambia.

57. Draft resolution E/CN.4/1992/L.24 was adopted by 22 votes to 12, with 15 abstentions.

Draft resolution E/CN.4/1992/L.27 (agenda item 12)

58. The CHAIRMAN suggested that a decision on the draft resolution should be postponed as it was still the subject of consultations. If there was no objection, he would take it that the Commission accepted his suggestion.

59. It was so decided.

Draft resolution E/CN.4/1992/L.49/Rev.1 (agenda item 12)

60. The CHAIRMAN suggested that consideration of that draft resolution, too, should be postponed, in accordance with rule 52 of the rules of procedure, which read: "Unless the Commission decides otherwise, proposals and substantive amendments shall be discussed or put to the vote no earlier than twenty-four hours after copies have been circulated to all members." The text of draft resolution E/CN.4/1992/L.49/Rev.1 had not been circulated in all the languages within that time-limit.

61. Mr. ZHANG Yishan (China) said he saw no reason to postpone a decision on draft resolution E/CN.4/1992/L.49/Rev.1, which mainly concerned China. His delegation therefore proposed that the Commission should consider the text without further delay.

62. Mrs. GOMES (Portugal) said that it was for the Commission to decide whether it wished to take a decision on the draft resolution immediately or to postpone consideration. The sponsors of the text would comply with its decision.

63. Mr. KAMAL (Pakistan), supported by Mr. MASRI, (Syrian Arab Republic), said that since the Chinese delegation - which was the main party concerned - and the sponsors of the draft resolution (through the Portuguese delegation) had no objection to the Commission considering the draft resolution immediately, there was no reason to delay a decision on it.

64. Mr. SZELEI (Hungary) requested that consideration of the draft resolution should be postponed pursuant to rule 52 of the rules of procedure.

65. After a procedural debate in which Mr. NASSERI (Iran), Mr. FAN Guoxiang (China) and Mr. OMAR (Libyan Arab Jamahiriya) took part, the CHAIRMAN put to the vote China's proposal that the Commission should consider draft resolution E/CN.4/1992/L.49/Rev.1 without further delay.

66. The proposal by China was adopted by 45 votes to 3, with 1 abstention.

67. Mr. MAUTNER-MARKHOF (Secretary of the Commission) announced that Japan had joined the sponsors of the draft resolution. He drew attention to a minor error in the French text of the draft resolution: in the title, the word Tibet should not appear in brackets; the words China and Tibet should be separated by a stroke.